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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 GABRIEL ECKARD,

9 Plaintiff,

10 v.

11 JEA LEE,

12 Defendant.

Case No. C19-429-RAJ-MLP

ORDER DIRECTING RESPONSE TO
DEFENDANT'S SUMMARY
JUDGMENT MOTION

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14 This is a 42 U.S.C. § 1983 prisoner civil rights action. Plaintiff Gabriel Eckard is a
15 pretrial detainee at the Snohomish County Jail in Everett, Washington. The Court previously
16 recommended to the Honorable Richard A. Jones that Plaintiff's motion for summary judgment
17 be denied. (Dkt. # 22 (Report & Recommendation).) However, Judge Jones has not yet ruled on
18 that Report and Recommendation.

19 Currently before the Court is Defendant Sgt. Jea Lee's motion for summary judgment
20 requesting that Plaintiff's excessive force claim against him be denied, and this action be
21 dismissed with prejudice. (Dkt. # 24 (Defendant's Motion for Summary Judgment).) Rather than
22 substantively respond to Defendant's summary judgment motion, however, Plaintiff has filed an
23 "objection" contending that Defendant's filing of his dispositive motion is premature. (Dkt. #

26.) Specifically, Plaintiff argues that allowing Defendant to file a summary judgment motion before Judge Jones has had an opportunity to rule on his previous motion prejudices him by presuming that his dispositive motion will be denied. (*Id.*)

In Defendant's response to Plaintiff's objections, he argues that there is no rule that precludes this Court from considering his pending summary judgment motion simply because a final order has not issued on a prior dispositive motion. (Dkt. # 28.) Defendant asks the Court to dismiss Plaintiff's objections, and issue a prompt ruling on Defendant's timely dispositive motion. (*Id.* at 3.)

Defendant is correct. Plaintiff has cited no authority, and the Court is aware of none, preventing this Court from considering Defendant's summary judgment motion before a final ruling is issued on Plaintiff's motion by Judge Jones. The Court is also unpersuaded that Plaintiff will be unfairly prejudiced by this Court ruling on Defendant's summary judgment motion in a timely manner. Because the Court does not intend to delay its recommendation regarding Defendant's summary judgment motion until Judge Jones has ruled on the prior Report and Recommendation, Plaintiff should substantively respond to Defendant's motion (if he intends to do so) by no later than **Monday, December 16, 2019**. The Court does not anticipate granting any extensions of this deadline absent extraordinary circumstances. Defendant may file a reply by no later than **Friday, December 20, 2019**. The Clerk of the Court is also directed to RE-NOTE Defendant's summary judgment motion (dkt. # 24) for consideration by the Court on **Friday, December 20, 2019**.

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1 The Clerk is directed to send copies of this order to the parties and to the Honorable
2 Richard A. Jones.

3 Dated this 12th day of November, 2019.

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5 MICHELLE L. PETERSON
6 United States Magistrate Judge
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